



PATENTS
CF/027

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicant : Andrew C. Gilbert
 Application No. : 09/995,698
 Confirmation No. : 2615
 Filed : November 29, 2001
 For : SYSTEMS AND METHODS FOR LINKING BIDS
 AND OFFERS IN A TRADING INTERFACE
 Group Art Unit : 2161

RECEIVED
 JUL 22 2002
 OFFICE OF PETITIONS

New York, New York 10020
 July 15, 2002

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 Hon. Commissioner for Patents
 P.O. Box 2327
 Arlington, Virginia 22202

PETITION FOR FILING WHEN AN
 INVENTOR'S LEGAL REPRESENTATIVE REFUSES TO SIGN
PURSUANT TO 37 C.F.R. § 1.47

The signature of the inventor for which a patent is sought on the above-entitled invention has not been secured.

The inventor whose signature has not been secured was present at the World Trade Center, Tower 1, on September 11, 2001. Because of the attack on the World Trade Center, that inventor is missing and presumed dead, and his legal representative (his wife) has been identified.

A diligent effort has been made to secure the signature of the legal representative. As proof, attached is a file copy of a January 15, 2002 letter from the undersigned to the legal representative that was sent by Federal Express

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along with a Declaration And Power Of Attorney in connection with this patent application. The legal representative of the deceased failed to execute and return the Declaration And Power Of Attorney on behalf of the deceased inventor in this case. Following the writing of the letter, the undersigned also left telephone messages on the legal representative's answering machine which were not returned.

Accordingly, applicant files herewith a Declaration And Power Of Attorney signed by a person to whom the deceased inventor has assigned or agreed in writing to assign the invention under 37 C.F.R. § 1.47(b). As a condition of his employment with eSpeed, Inc., a subsidiary of Cantor Fitzgerald, L.P., a company existing under the laws of the State of Delaware, the deceased inventor had agreed in writing to sign all required documents to transfer ownership to Cantor Fitzgerald of the inventions he invented while working for Cantor Fitzgerald.*

* The employment agreement states in pertinent part, "Cantor Fitzgerald owns all the tangible and intangible work product originated or developed by employees in connection with their employment, even if developed outside the Firm's premises. As a condition of your employment you agree that Cantor Fitzgerald shall have exclusive ownership of any and all right, title, and interest in (1) all copyright, trademarks, service mark rights, patents or processes associated with any work, mark, invention or process produced during the course of your employment which was originated or developed in connection with such employment; and (2) any such proprietary rights with respect to any invention or process originated or such proprietary rights with respect to any invention or process originated or developed in connection with your employment reduced to practice following the termination of your employment, if the invention or process existed in an intangible form prior to such termination, even if it was not workable at that time."

Should the legal representative subsequently execute the Declaration And Power Of Attorney, her executed Declaration And Power Of Attorney will be forwarded to the U.S. Patent and Trademark Office.

Respectfully submitted,

A handwritten signature in cursive script, reading "Joel Weiss", is written over a horizontal line.

Joel Weiss
Registration No. 44,398
Attorney for Applicant
FISH & NEAVE
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020-1105
Tel.: (212) 596-9000



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LAST KNOWN ADDRESS OF NONSIGNING
LEGAL REPRESENTATIVE OF DECEASED INVENTOR
PURSUANT TO 37 C.F.R. § 1.47

Full Name Of Deceased Inventor Andrew C. Gilbert
Legal Representative (Wife) Mary Ann Gilbert
Last Known Address 5 Scarlet Oak Road
Califon, New Jersey 07830
Last Known Post Office Address SAME

Respectfully submitted,

Jared Kneitel
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JOEL WEISS

DIRECT DIAL 212.596.9222

January 15, 2002

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JUL 22 2002
OFFICE OF PETITIONS

BY FEDERAL EXPRESS

Ms. Mary Ann Gilbert
5 Scarlet Oak Drive
Califon, NJ 07830

Dear Ms. Gilbert:

As your are aware, we are outside patent attorneys for Cantor Fitzgerald and represent Cantor Fitzgerald on numerous patent matters, including obtaining patents on inventions that your husband made while he was employed by Cantor Fitzgerald. We need your assistance with respect to obtaining patents on those inventions.

First, please accept our sincere condolences on the loss of your husband. We greatly enjoyed meeting and working with him. Please accept our apologies for troubling you with these matters at this time.

As you may be aware, Andrew had been working on a number of patent applications on behalf of Cantor Fitzgerald. Certain formalities -- i.e., signing of the required documentation -- for many of these applications still remain to be completed. Application for the patent may be executed by the legal representatives of the inventor. Accordingly, we need to have two documents signed by Andrew's legal representative (executor, administrator, heir or

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Ms. Mary Ann Gilbert
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heirs, etc.) for each of his patent applications. We also need assurance by the legal representative of his or her power or authority.

The two documents that we need to have signed are enclosed and are as follows:

1. Declaration and Power of Attorney for Patent Application (attached to the back of the enclosed copy of the relevant patent application); and
2. Assignment of rights to eSpeed, Inc. (an affiliate of Cantor Fitzgerald)

The first document declares that Andrew was the sole inventor, or one of a group of inventors, that invented the subject matter in the patent application. The first document also gives our firm Power of Attorney to prosecute the application before the United States Patent and Trademark Office.

The second document assigns rights in the patent application to eSpeed, Inc. Andrew was legally obligated by his employment agreement* to sign all required documents to transfer ownership to Cantor Fitzgerald of the inventions that he invented while working for Cantor Fitzgerald (for internal corporate reasons, we request that you assign the inventions to eSpeed, Inc.)

If you have any questions concerning these documents, or would simply like a broader explanation of the import of these documents, please feel free to call me or to consult other counsel.

* The employment agreement states in pertinent part, "Cantor Fitzgerald owns all the tangible and intangible work product originated or developed by employees in connection with their employment, even if developed outside the Firm's premises. As a condition of your employment you agree that Cantor Fitzgerald shall have exclusive ownership of any and all right, title, and interest in (1) all copyright, trademarks, service mark rights, patents or processes associated with any work, mark, invention or process produced during the course of your employment which was originated or developed in connection with such employment; and (2) any such proprietary rights with respect to any invention or process originated or such proprietary rights with respect to any invention or process originated or developed in connection with your employment reduced to practice following the termination of your employment, if the invention or process existed in an intangible form prior to such termination, even if it was not workable at that time.

As further condition of your employment, you agree to execute any and all documents necessary to protect and preserve Cantor Fitzgerald's proprietary rights in copyrights, trademarks, service marks, patents, processes and trade secrets even if you are no longer employed by the Firm and including at Cantor Fitzgerald's request, you agree to confirm such assignment in writing. . . . "

Ms. Mary Ann Gilbert
January 15, 2002
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We have assumed that you are your husband's legal representative. If so, please complete the enclosed two documents and return them to me in the enclosed self-addressed, postage-paid, return envelope. We will consider our receipt of the signed documents from you as your assurance to us that you are the legal representative.

If you are not your husband's legal representative, please tell me how to contact that person so that we can get him or her to sign the enclosed documents.

Again, if you have any questions, please call me. If you would prefer to speak to someone at Cantor Fitzgerald about this, I suggest Mr. Howard H. Lutnick, tel.: (212) 821-6968.

We are required by law to make a diligent effort to secure your participation in completing these applications prior to proceeding without your participation.

If we do not hear from you in two weeks time from the date of this letter, we will try to contact you again. If, after we try to contact you a second time, we do not hear from you, we will assume that you do not wish to participate. Similarly, you may choose to inform us that you do not wish to participate. In either case, we will proceed with the application process on behalf of Cantor Fitzgerald without the signed documents.

I greatly appreciate your help and I look forward to hearing from you.

We may be sending you more of these documents for signing in the future. Please forgive this inconvenience but it is not possible to forward all the documents to you at this time because the applications are at different stages of completion.

Sincerely yours,

Joel Weiss

JW:jw
Enclosures

cc: Steven Merkel, Esq. (w/o enc.)